

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

PATTSY S. PELATE,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Case No. 16-cv-01245 - JPG

MEMORANDUM AND ORDER

This matter comes before the Court on petitioner Patsy S. Pelate's Motion (Doc. 1) to Vacate, Set Aside or Correct her sentence pursuant to 28 U.S.C. § 2255. The Petitioner has a previous 28 U.S.C. § 2255 (*Pelate v. USA, 16-cv-00999-JPG*) making his matter a successive petition. In order for the Court to consider a successive petition, the Seventh Circuit Court of Appeals must certify the successive petition pursuant to 28 U.S.C. § 2255(h). *Curry v. United States*, 507 F.3d 603, 604 (7th Cir. 2007); *Nunez v. United States*, 96 F.3d 990, 991 (7th Cir. 1996).

Petitioner did not obtain a certification for a successive petition pursuant to 28 U.S.C. § 2255(h) from the Seventh Circuit Court of Appeals. Therefore, this matter is **DISMISSED** for lack of jurisdiction. The Clerk of Court is **DIRECTED** to close this matter and the Petitioner is **DIRECTED** to seek certification from the Seventh Circuit Court of Appeal for a successive petition.

Also, the Court would like to inform the petitioner that ordinarily, a defendant who believes she is entitled to a lower sentence based on a retroactive guideline amendment will seek

such a reduction in a motion under 18 U.S.C. § 3582(c)(2) filed in the criminal matter, not a motion pursuant to 28 U.S.C. § 2255.

IT IS SO ORDERED.

DATED: 11/21/2016

s/J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE